

TTAB

Attorney's Docket No.: 02103-686PP1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Registration No. 2,743,337/76207035
For the Mark ELECTROFORCE
Issued on July 29, 2003

BOSE CORPORATION,

Petitioner,

v.

SYNCHRO-START PRODUCTS, INC.,

Respondent.



01-27-2005

U.S. Patent & TMO/TM Mail Rcpt Dt. #11

Cancellation No.

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION FOR CANCELLATION

Bose Corporation, The Mountain, Framingham, Massachusetts 01701-9168, a corporation organized and existing under the laws of Delaware, U.S.A., believes that it is or will be damaged by the above-identified registration, and petitions to cancel the same.

As grounds therefore, it is alleged that:

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

02/04/2005 6THOMAS2 00000069 2743337

01 FC:6401

300.00 DP

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451

Date of Deposit

January 25, 2005

Signature

Peta Smolensky

Typed or Printed Name of Person Signing Certificate

Registrant : Synchro-Start Products, Inc.
Reg. No. : 2,743,337
Issued : July 29, 2003
Mark : ELECTROFORCE
Page : 2

Attorney's Docket No.: 02103-686PP1

Claim for Relief

1. Petitioner uses, and/or has used, itself and/or through a predecessor-in-interest, since long prior to February 8, 2001, the registered trademark ELECTROFORCE for specimen testing instruments used to apply cyclic and static loads to a specimen integrated with a controller used for fatigue testing and material testing of the specimen subjected to loads, which includes solenoids, electromagnetic actuators and electromechanical and electronic controls for controlling solenoids and actuators.

2. Petitioner is the owner of U.S. Trademark Registration No. 2,584,389, issued on June 25, 2002, for the mark ELECTROFORCE, for specimen testing instruments used to apply cyclic and static loads to a specimen integrated with a controller used for fatigue testing and material testing of the specimen subjected to loads. This registration is valid and subsisting and in full force and effect as evidenced by the enclosed certified copy.

3. Petitioner accordingly owns valuable goodwill in its mark ELECTROFORCE in connection with the goods set forth in the above paragraphs.

4. On February 8, 2001, Respondent Synchro-Start Products, Inc. filed Application Serial No. 76/207,035 for the mark ELECTROFORCE on the basis of intent to use such mark in commerce for solenoids, electro-magnetic actuators, and electro-mechanical and electronic controls for controlling solenoids and actuators, in International Class 9. On March 31, 2003 Respondent filed a Statement of Use alleging use of the mark in commerce for these goods as of April 18, 2001. Said application was registered on July 29, 2003 under Registration No. 2,743,337.

Registrant : Synchro-Start Products, Inc.
Reg. No. : 2,743,337
Issued : July 29, 2003
Mark : ELECTROFORCE
Page : 3

Attorney's Docket No.: 02103-686PP1

5. Upon information and belief, Respondent Synchro-Start Products, Inc. has an office at 6250 West Howard Street, Niles, Illinois 60714.

6. Upon information and belief, Respondent did not use the mark ELECTROFORCE for solenoids, electro-magnetic actuators, and electro-mechanical and electronic controls for controlling solenoids and actuators, prior to its constructive first use date of February 8, 2001.

7. Respondent's ELECTROFORCE mark, as used for solenoids, electro-magnetic actuators, and electro-mechanical and electronic controls for controlling solenoids and actuators, so resembles the previously used and registered ELECTROFORCE mark of Petitioner as used in connection with Petitioner's goods, namely, specimen testing instruments used to apply cyclic and static loads to a specimen integrated with a controller used for fatigue testing and material testing of the specimen subjected to loads, which includes solenoids, electromagnetic actuators and electromechanical and electronic controls for controlling solenoids and actuators, as to be likely to cause confusion or cause mistake, or to deceive.

8. Based upon the foregoing, the registration of the mark depicted in Registration No. 2,743,337 registered on July 29, 2003 on the Principal Register of the United States Patent and Trademark Office, will cause injury and damage to Petitioner.

WHEREFORE, Petitioner requests that Registration No. 2,743,337 for ELECTROFORCE owned by Respondent be cancelled and that this Petition for Cancellation be sustained in favor of Petitioner.

Enclosed is a check for \$300.00 to cover the required fee. Please apply any charges not covered, or any credits, to Deposit Account 06-1050, Order No. 02103-686PP1.

Registrant : Synchro-Start Products, Inc.
Reg. No. : 2,743,337
Issued : July 29, 2003
Mark : ELECTROFORCE
Page : 4

Attorney's Docket No.: 02103-686PP1

Respectfully submitted,

Date:

January 17, 2005

Amy L. Brosius

Charles Hicken
Cynthia Johnson Walden
Amy L. Brosius
FISH & RICHARDSON P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

Attorneys for Petitioner,
BOSE CORPORATION

Enclosure:

Certified Copy of Registration No. 2,584,389

20999764.doc

753165

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

January 19, 2005

THE ATTACHED U.S. TRADEMARK REGISTRATION 2,584,389 IS
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND
EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN
THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF 10 YEARS FROM *June 25, 2002*

SAID RECORDS SHOW TITLE TO BE IN:

BOSE CORPORATION

A DELAWARE CORPORATION

By Authority of the

COMMISSIONER OF PATENTS AND TRADEMARKS



H. L. JACKSON

Certifying Officer

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

Reg. No. 2,584,389

United States Patent and Trademark Office

Registered June 25, 2002

**TRADEMARK
PRINCIPAL REGISTER**

ELECTROFORCE

**ENDURATEC SYSTEMS CORPORATION (MIN-
NESOTA CORPORATION)
5610 ROWLAND ROAD
MINNETONKA, MN 55343**

**FOR: SPECIMEN TESTING INSTRUMENTS
USED TO APPLY CYCLIC AND STATIC LOADS
TO A SPECIMEN INTEGRATED WITH A CON-
TROLLER USED FOR FATIGUE TESTING AND
MATERIAL TESTING OF THE SPECIMEN SUBJEC-**

**TED TO LOADS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36
AND 38).**

FIRST USE 1-17-2000; IN COMMERCE 1-17-2000.

SER. NO. 76-002,451, FILED 3-17-2000.

WENDY GOODMAN, EXAMINING ATTORNEY